

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

**DEMETRIUS MCGEE,**

**Plaintiff,**

**VS.**

**CITY OF FORT WORTH  
POLICE DEP'T, ET AL.,**

**Defendants.**

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**CIVIL ACTION No. 4:22-cv-0892-P-BP**

**FINDINGS, CONCLUSIONS AND RECOMMENDATION  
OF THE UNITED STATES MAGISTRATE JUDGE**

Plaintiff, Demetrius McGee, has filed a civil case. ECF No. 1. Resolution of preliminary matters was referred to the United States Magistrate Judge pursuant to the provisions of 28 U.S.C. § 636(b) and Special Order No. 3. ECF No. 2. The findings, conclusions and recommendation of the United States Magistrate Judge are as follows:

**FINDINGS AND CONCLUSIONS:**

**A. NATURE OF THE CASE**

This case is a new civil action.

**B. PARTIES**

Demetrius McGee is the Plaintiff and City of Fort Worth Police Department, Officer FNU Wisdom, Officer FNU Hanson, and Officer FNU Davis are named as Defendants. ECF No. 1.

**C. LEGAL ANALYSIS**

Plaintiff failed to pay the applicable filing fee or to seek leave to proceed *in forma pauperis*. By order signed October 6, 2022, the undersigned ordered that by October 24, 2022, Plaintiff either

pay the \$402.00 filing and administrative fees or complete and file an application to proceed *in forma pauperis*. ECF No. 4. The order cautioned that “**failure to submit the required payment or to file an application may result in the dismissal of this action for want of prosecution without further notice.**” *Id.* As of the date of this order, Plaintiff has not paid the filing fee or completed and filed the requisite form or otherwise filed any document responsive to the Court’s order.

Rule 41(b) of the Federal Rules of Civil Procedure permits a court to dismiss an action *sua sponte* for failure to prosecute or follow orders of the court. *McCullough v. Lynaugh*, 835 F.2d 1126, 1127 (5th Cir. 1988). This authority flows from a court’s inherent power to control its docket, prevent undue delays in the disposition of pending cases, and avoid congested court calendars. *Link v. Wabash R.R. Co.*, 370 U.S. 626, 629-31 (1962). Because Plaintiff has failed to comply with this Court’s Order and Notice of Deficiency, this case may be dismissed for failure to comply with a Court order and for lack of prosecution under Federal Rule of Civil Procedure 41(b).

#### **RECOMMENDATION**

It is therefore **RECOMMENDED** that that all of Plaintiff’s claims be **DISMISSED** for lack of prosecution, without prejudice to being refiled. *See* Fed. R. Civ. P. 41(b).

#### **NOTICE OF RIGHT TO OBJECT TO PROPOSED FINDINGS, CONCLUSIONS AND RECOMMENDATION AND CONSEQUENCES OF FAILURE TO OBJECT**

A copy of this report and recommendation shall be served on all parties in the manner provided by law. Under 28 U.S.C. § 636(b)(1), each party to this action has the right to serve and file specific written objections in the United States District Court to the United States Magistrate Judge’s proposed findings, conclusions, and recommendation within fourteen (14) days after the party has been served with a copy of this document. The United States District Judge need only

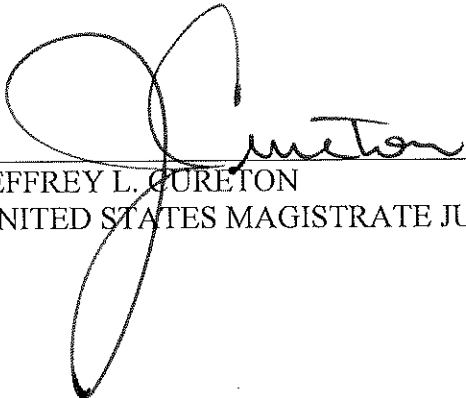
make a de novo determination of those portions of the United States Magistrate Judge's proposed findings, conclusions, and recommendation to which specific objection is timely made. *See* 28 U.S.C. § 636(b)(1). Failure to file by the date stated above a specific written objection to a proposed factual finding or legal conclusion will bar a party, except upon grounds of plain error or manifest injustice, from attacking on appeal any such proposed factual findings and legal conclusions accepted by the United States District Judge. *See Douglass v. United Servs. Auto Ass'n*, 79 F.3d 1415, 1428–29 (5th Cir. 1996) (en banc), *superseded by statute* 28 U.S.C. § 636(b)(1) (extending the deadline to file objections from ten to fourteen days).

**ORDER**

Under 28 U.S.C. § 636, it is **ORDERED** that Plaintiff is granted until **November 17, 2022** to serve and file written objections to the United States Magistrate Judge's proposed findings, conclusions and recommendation.

It is further **ORDERED** that the above-styled and numbered action, previously referred to the United States Magistrate Judge for findings, conclusions and recommendation, be and is hereby, **RETURNED** to the docket of the United States District Judge.

SIGNED November 2, 2022.

  
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JEFFREY L. CURETON  
UNITED STATES MAGISTRATE JUDGE